

# Frederick County Responses to Observations in EPA Inspection Report

## INTRODUCTION (Inspection Report at p. 1)

1. Compliance with the MS4 permit is a team effort that spans multiple divisions. EPA notes that “The primary representatives involved in the inspection were the following:” Corrections are noted below.
  - a. As noted on the sign-in sheet, Darlene Bucciero was employed with the Community Development Division’s Watershed Management Section at the time of the audit. Thus, “Ms. Darlene Bucciero, Project Manager IV, Office of Project Management” should be revised to read: “Ms. Darlene Bucciero, Project Manager IV, Watershed Management Section”.
  - b. Multiple key staff who participated in the office and field sessions during the audit are missing from the Inspection Report but included on the sign-in sheets. The County requests that EPA revise the Inspection Report (p. 1-2) to add the following staff to the list of “primary representatives:”
    - i. Mr. Bill Routzahn, Superintendant of Highways, Division of Public Works
    - ii. Mr. Donald Crum, Assistant Superintendant of Highways, Division of Public Works
    - iii. Pat Hannah, Director of Fleet Services, Division of Public Works
    - iv. Ms. Valiree Stine, Fuel System Coordinator for Fleet Services, Division of Public Works
    - v. Mr. Gary Hessong, Director of the Permits and Inspection Department, Community Development Division
    - vi. Mr. Mark Schweitzer, Department Head of Regulatory Compliance, Division of Utilities and Solid Waste Management
    - vii. Mr. Phil Harris, Superintendant of Department of Solid Waste Management, Division of Utilities and Solid Waste Management
    - viii. Ms. Nancy Norris, Assistant Director, Translt
    - ix. Thomas Sullivan, Software Integrator, Interagency Information Technologies Division
    - x. Yeon Kim, GIS Project Manager, Interagency Information Technologies Division
    - xi. Jason Jones, GIS Specialist, Interagency Information Technologies Division
  - c. David Dunn, County Manager, attended the initial kick-off meeting and spoke, but did not sign in the sign-in sheet. The County requests that EPA revise the Inspection Report to add Mr. Dunn to the list of “primary representatives.”
  - d. The County’s consultants from Versar and AquaLaw also attended multiple office and field audit sessions. The County requests that EPA revise the Inspection Report (p. 2) to add the following sentence to the paragraph beginning with “For a complete list....”: “In addition to staff from the County, Frederick County Public Schools, EPA, MDE, and EPA’s consultants, the County’s consultants from Versar and AquaLaw also attended multiple office and field audit sessions.

## FREDERICK COUNTY BACKGROUND (Inspection Report at p. 2-3)

2. EPA states that “The total population of the county, including incorporated municipalities, is estimated to be 233,385 people at the time of the 2010 U.S. Census. However, the population

served by the MS4 system is 135,647.” This is the number of citizens who live outside of a municipality. This is not the number of citizens served by the MS4. The County requests that EPA revise the second sentence above in the following manner: “However, ~~the population served by the MS4 system is 135,647~~ only 135,547 people live within the areas of Frederick County that are not incorporated municipalities.”

3. EPA states that “Currently the County has approximately 15 personnel, three inspectors, and approximately 14 other staff to implement the MS4 program.” In point of fact, many other county staff assist with permit compliance. The County requests that EPA revise this text in the following manner: “Currently, the County has approximately 15 personnel, three inspectors, and approximately 14 other staff to implement the MS4 program. Additionally, numerous other County staff assist with MS4 permit compliance.”
4. EPA states that “the program is funded through partnerships with outside grantors and through its coordination of the Monocacy and Catoctin Watershed Alliance (MCWA).” This is incorrect. The program is funded through general funds from taxes. The efforts of MCWA and funds from grants help to leverage county efforts, but the compliance funds are County general funds dedicated to the program. The County requests that EPA revise this text in the following manner: “the program is funded through primarily through County general funds dedicated to implementation of the program and through partnerships with outside grants and through its coordination of the Monocacy and Catoctin Watershed Alliance (MCWA).”
5. EPA states that “According to the Frederick County 2011 NPDES MS4 Permit MD0068357 Annual Report (Annual Report), the FY 2012 budget, beginning in July 2011, is \$614,081, which includes \$189,806 in personnel expenses and \$424,275 in operating expenses.” These funds are those directly expended on the Watershed Management staff and program through operating and capital budgets from the general fund; however the County spends substantially more on the program through general fund dollars in other departments and divisions. Using updated “Attachment A” guidance from the Maryland Department of the Environment for MS4 permit compliance, the County has spent an average of \$2.5M/year on MS4 compliance for the past ten years. [See excel sheet. ] The County requests that EPA revise this text in the following manner: “According to the Frederick County 2011 NPDES MS4 Permit MD0068357 Annual Report (Annual Report), the FY 2012 budget, beginning in July 2011, is \$614,081, which includes \$189,806 in personnel expenses and \$424,275 in operating expenses. These amounts are directly expended on the County’s Watershed Management staff and program, however, the County expends additional dollars on the program by allocating funding to other County departments and divisions. In sum, the County has spent an average of \$2.5 Million per year on MS4 permit compliance for each of the past ten years.”

## **EPA Observation 1 (Inspection Report, p. 3-4):**

### **Part III.E.1 – Stormwater Management**

Part III.E.1 of the Permit requires that the permittee shall inspect and maintain public (SWM) and Best Management Practice (BMP) facilities. At a minimum, the permittee will conduct preventative maintenance inspections of all SWM facilities on at least a triennial basis.

### Observation 1:

Frederick County cannot confirm triennial inspections due to lost records. Frederick County uses two systems to track BMP inspections: an MS Access database and the Hansen system. The County historically used the MS Access database and began entering BMP inspection records into both the MS Access database and Hansen system in November 2010. Each system stores slightly different information.

In 2009, prior to using the Hansen system for recording BMP inspections, Frederick County lost a number of electronic records including BMP inspection records from at least 2003 through 2007. Frederick County has been unable to restore all records from database backups. Without complete records, Frederick County cannot confirm that all BMPs are inspected at least triennially. For example, for the Stonebridge Regional Shallow Marsh Pond (BMP ID 1), while an inspection was scheduled for 2005, there is no record of an inspection between 2002 and 2007. Additionally, for Tranquility (BMP ID 24), there is no record of any inspection occurring between 1999 and 2008. For the Potomac Station Regional Retention Pond (BMP ID 7), there is no record of any inspection occurring prior to 2011, even though the BMP was built in 1992. See Exhibit 1 in Appendix 4 for the BMP inspection records. It is unclear whether inspections did not occur or if the records were lost.

As of August 6, 2012, the County had updated the Hansen system to include all relevant fields for BMP inspections and transitioned to using only the Hansen system to track new inspections and is transferring old inspection records into Hansen as time allows and as new inspections become due. Currently 250 of the 731 BMPs in Frederick County have been entered into the Hansen system

### County Response

As of July 16, 2013, there are 901 stormwater management (SWM) facilities in the County. The County has a process in place for inspecting these facilities, for follow-up inspections of failing sites, and for taking corrective action. The County explained its procedure for ensuring proper operation and maintenance of SWM facilities in its 2011 Annual Report, and noted that from January 1, 2011 to December 31, 2011, it found 47 facilities with unacceptable site conditions. Of these 17 were corrected upon re-inspection; the County was actively enforcing against the remaining 13 site as of the end of 2011. The County further explained that:

Those facilities where site conditions were not corrected are re-notified and given 30 days to comply. The process for follow-up on those facilities deemed "Unacceptable" is as follows:

- If the facility has a "Critical Failure", it is immediately referred to the ECS full-time staff for follow-up and enforcement.
- If the facility has a "Non-Critical" issue, a follow-up re-inspection will be made within 30-45 days. If compliance has not occurred, the issue will be forwarded to ECS full-time staff for enforcement."

EPA has stated that the County had a database failure in 2009. In fact, there was a database failure in 2010 that resulted in the loss of a limited number of records. The County was forthcoming in documenting this situation in the 2010 Annual Report, noting that approximately 49 facilities were deleted and an unknown number of other facilities were partially deleted or altered. The County took quick action, and began working to build and repopulate a new database. At this time, staff from the Division of Permitting and Development Review (DPDR) decided to combine the previously separate SWMF and SWM Maintenance Inspection/Illicit Connection Detection databases into one master

database. The DPDR staff sought to ensure that anyone accessing the database would receive the most current and accurate data for a particular SWM facility.

The County has continued to work on database improvements. The database has since been reconstructed in the Hansen system. EPA states, "As of August 6, 2012, the County had updated the Hansen system to include all relevant fields for BMP inspections and transitioned to using only the Hansen system to track new inspections and is transferring old inspection records into Hansen as time allows and as new inspections become due. Currently 250 of the 731 BMPs in Frederick County have been entered into the Hansen system." As noted above, there are 901 facilities as of 7/16/2013. All records are now in Hansen instead of multiple systems, and the County has scheduled inspections of these facilities through 2016. As new facilities are added to the system, they are added to the Hansen system.

## **EPA Observation 2 (Inspection Report, p. 4)**

### **Part III.E.2. – Illicit Discharge Detection and Elimination**

Part III.E.2 of the Permit requires that the permittee shall maintain its illicit connection detection and elimination program. At a minimum, the Permittee must ensure that all discharges to the MS4 that are not composed entirely of stormwater are either permitted by MDE or eliminated. The permittee must also screen 150 outfalls and sample any discharges at the outfalls using a chemical test kit. The permittee must also report annually the results of field screening activities on MDE's illicit connection detection database. Additionally, the Permittee must identify all County-owned facilities requiring an NPDES discharge permit and submit documentation that a permit has been obtained for each facility. The implementation status of pollution prevention plans for County-owned facilities are required to be submitted in the County's annual report.

### **Observation 2:**

Dry weather screening of outfalls is associated with existing SWM facilities (e.g., stormwater ponds) and outfalls are therefore not necessarily selected based on high-risk such as commercial or industrial activities. In 2011, Frederick County conducted field screening of 274 outfalls or stormwater management structures for dry weather flows, however only 104 of the outfalls or structures (approximately 40 percent) are associated with stormwater runoff from commercial and industrial areas (see Exhibit 2 in Appendix 4). The remaining screened outfalls are associated with residential areas or institutional areas such as schools, churches and athletic fields.

### **County Response**

The County's permit requires the County to "b. annually, field screen at least 150 outfalls. Each outfall having a discharge shall be sampled using a chemical test kit; c. Report annually the results of field screening activities on MDE's illicit connection detection database. The following shall be included: the number of illegal storm drain connections, the results of investigations made, any enforcement used, the disposition of all illegal storm drain system connections found as a result of this portion of Frederick County's stormwater management program, and an updated list of targeted outfalls and an inspection schedule." The permit does not require Frederick County to select outfalls for screening in targeted commercial and industrial areas. Although other Maryland Phase I MS4 permits do include a requirement for serving these areas, this is not a requirement of the County's permit. If the County successfully inspects 150 outfalls per year, regardless of their location, the County is in compliance with its Permit. EPA's Inspection Report does not make any observations regarding any failure by the County to screen 150 outfalls per year for the compliance period reviewed. Indeed, as noted in the Inspection

Report (p. 4), in 2011, the County screened 274 outfalls for dry weather flow, nearly twice the required number.

In its 2006-2008 Annual Report Review dated September 16, 2009, MDE suggested that “it appears that the County’s ICDE program needs to develop additional strategies and procedures to better ensure that no illicit discharges are occurring throughout the year. At a minimum, the inflow points to the stormwater facilities should be inspected during triennial inspections in addition to the outflows. The Department of Highway and Transportation could become a partner in the ICDE program by reporting problems observed, such as dry weather flows, while performing ditch cleaning and other maintenance work.” The review does not mention the need to address commercial and industrial facilities. As a result of the Annual Report Review, as reported in the 2010 Annual Report, Frederick County directed Versar, Inc. to augment its biological sampling protocol to look for illicit discharges during randomly stratified instream sampling of 50 sites per year over a 75 meter stretch per site. This change is noted in the 2009 Annual Report, Appendix N and has taken place every year since. In short, the County responded proactively to suggestions made by MDE and has focused on program improvements meant to reduce the number of illicit discharges the County experiences on the MS4 each year.

### **EPA Observation 3 (Inspection Report, p. 5)**

#### **Part III.E.2. (Illicit Discharge Detection and Elimination)**

Part III.E.2 of the Permit requires that the permittee shall maintain its illicit connection detection and elimination program. At a minimum, the Permittee must ensure that all discharges to the MS4 that are not composed entirely of stormwater are either permitted by MDE or eliminated. The permittee must also screen 150 outfalls and sample any discharges at the outfalls using a chemical test kit. The permittee must also report annually the results of field screening activities on MDE’s illicit connection detection database. Additionally, the Permittee must identify all County-owned facilities requiring an NPDES discharge permit and submit documentation that a permit has been obtained for each facility. The implementation status of pollution prevention plans for County-owned facilities are required to be submitted in the County’s annual report.

#### **Observation 3:**

Frederick County has contracted with Versar, a company specializing in field screening, to conduct field screening when a dry weather flow is discovered. Because Versar is conducting field screening on a regular basis for a variety of similar type programs, they are familiar with the use of field sampling and analysis methods.

#### **County Response**

The County has had Versar under contract to assist the County with NPDES-related permit compliance for the past ten years. Versar provides the County with a number of services including illicit discharge detection and elimination. The Ecological Sciences and Analysis Division at Versar specializes in ecological and biological studies, and has extensive facilities for field data collection, laboratory processing of biological and chemical samples, and data analysis. The County will continue to keep Versar, or another equally qualified contractor, under contract to conduct the field screenings when dry weather flow is discovered in the future.

Frederick County thanks EPA for their recognition of the strength of our IDDE program, and the hard work we have done with our program to reduce illicit discharges and improve water quality.

## **EPA Observation 4 (Inspection Report, p. 5)**

### **Part III.E.2. (Illicit Discharge Detection and Elimination)**

Part III.E.2 of the Permit requires that the permittee shall maintain its illicit connection detection and elimination program. At a minimum, the Permittee must ensure that all discharges to the MS4 that are not composed entirely of stormwater are either permitted by MDE or eliminated. The permittee must also screen 150 outfalls and sample any discharges at the outfalls using a chemical test kit. The permittee must also report annually the results of field screening activities on MDE's illicit connection detection database. Additionally, the Permittee must identify all County-owned facilities requiring an NPDES discharge permit and submit documentation that a permit has been obtained for each facility. The implementation status of pollution prevention plans for County-owned facilities are required to be submitted in the County's annual report.

### **Observation 4:**

Frederick County inspectors are not contacting Versar to conduct sampling and field screening on every occasion when flow is observed. For example, according to the Access database, dry weather flow was observed on three separate occasions leaving Pond B at the Stanford Business Park; however, no field screening was conducted by Versar (see Exhibit 3 in Appendix 4). During the inspection conducted with the EPA Inspection Team on April 24, 2012, flow was again observed entering Pond B; however, a rain event had occurred with 48 hours of the inspection. The flow entering Pond B appears to originate from a property currently being operated by CINTAS, an industrial laundry (see Photographs 1 and 2 in Appendix 5). Frederick County inspectors stated they would perform another inspection of Pond B later in the week and if flow was still observed, then Versar would be contacted and chemical testing performed.

Another similar issue was identified in Frederick County's inspection documentation which showed a dry weather flow observed at Creekside Park H.O.A. – c/o Kent Briddell Construction, Inc. in December 2009; however, no field testing of the dry weather flow was conducted (see Exhibit 3 of Appendix 4).

### **County Response**

As documented in Observation 3, the County has hired Versar to develop and implement an IDDE screening protocol. In Frederick County, a number of the stormwater management facilities were constructed as in-stream structures, and, as a result, have perennial flow into and out of them. In response to EPA's concern noted above that some instances of dry weather flow were not historically reported to Versar for dry weather screening, the County notes that in those instances, the County's field inspector determined that the flow present was stream flow versus the result of an illicit discharge using his best professional judgment. The County has modified its procedures, and now requires dry weather screening on any stormwater management structure with dry weather flow.

County field inspectors note evidence of dry weather flows, if present, at all Stormwater Management Structure "As-Built" inspections and at every triennial maintenance inspection. If water is present, inspectors report this information to staff in the Office of Sustainability & Environmental Resources (OSER) within 24 hours of the original inspection. OSER staff then submits an IDDE investigation request to Versar, Inc., the consultant on contract to conduct IDDE screenings. If water quality test results or inspections indicate potential illicit connections, pollutant sources are identified and appropriate measures are taken to abate violations.

The County attaches to this response and incorporates by reference Exhibits 4.1 – 4.5, which document IDDE dry weather screenings conducted since the April 24<sup>th</sup> and 25<sup>th</sup> audit due to the presence of dry weather flows.

Exhibit 4.1 documents the follow up inspection completed on “Pond B” (Structure 657) specifically referred to in Observation 4. Four documents are contained within the Exhibit and are as follows:

- (1) “1-Stru657\_emailREfollowupinspection” – is the email notification from the inspector to OSER staff documenting the presence of a dry weather flow.
- (2) “2-STRU\_657\_inspsectionrpt” – is a copy of the inspector’s triennial inspection report.
- (3) “3-Stru657\_map” – is a map showing the location of the stormwater management facility.
- (4) “4-IDDEreport\_Stru657” – is a copy of Versar’s IDDE report documenting their results from the field screening.

Exhibit 4.2 documents the follow up inspection completed on the Creekside Park HOA facility (Structure 650) referred to in Observation 4 above. Four documents are contained within the Exhibit and are as follows:

- (1) “1-Stru650\_emailREfollowupinspection” – is the email notification from the inspector to OSER staff documenting the presence of a dry weather flow.
- (2) “2-STRU\_650\_inspectionrpt” – is a copy of the inspector’s triennial inspection report.
- (3) “3-Stru650\_map” – is a map showing the location of the stormwater management facility.
- (4) “4-IDDEreport\_Stru650” – is a copy of Versar’s IDDE report documenting their results from the field screening.

In addition, follow up inspections and dry weather flow screenings were conducted for Structure 28 (Ballenger Creek Meadows, SWM Pond) – Exhibit 4.3, Structure 52 (Samhill Estates Regional SWM Facility) – Exhibit 4.4, and Structure 591 (New Market West, SWM #1) – Exhibit 4.5 that are included in Exhibit 3 of Appendix 4 of the Frederick County Municipal Separate Storm Sewer System (MS4) Program Inspection Report.

## **EPA Observation 5 (Inspection Report at p. 5)**

### **Part III.E.2. (Illicit Discharge Detection and Elimination)**

Part III.E.2 of the Permit requires that the permittee shall maintain its illicit connection detection and elimination program. At a minimum, the Permittee must ensure that all discharges to the MS4 that are not composed entirely of stormwater are either permitted by MDE or eliminated. The permittee must also screen 150 outfalls and sample any discharges at the outfalls using a chemical test kit. The permittee must also report annually the results of field screening activities on MDE’s illicit connection detection database. Additionally, the Permittee must identify all County-owned facilities requiring an NPDES discharge permit and submit documentation that a permit has been obtained for each facility. The implementation status of pollution prevention plans for County-owned facilities are required to be submitted in the County’s annual report.

### **Observation 5:**

Frederick County inspectors are not examining inflow points into SWM facilities to determine if illicit discharges are occurring. Frederick County inspectors stated they are making observations of the outfall from stormwater facilities, but generally are not making observations to determine if water is flowing into the facility. During dry weather periods, water levels in structures such as ponds may be below

overflow structures at outfalls, and therefore no flow may be leaving the structure, even though dry weather discharges may be entering the structure. MDE's Review of Frederick County's 2008 Annual Report also made a similar observation, stating that at a minimum, the inflow points to stormwater facilities should be inspected during triennial inspections in addition to outflows to comply with Part E.2.b.

#### **County Response:**

The question was asked during the EPA Audit, "at what point does Frederick County enter [Flow Observed] in the inspection report". The answer given was that [Flow Observed] was only checked [a check box clicked] when there was flow noticed leaving the structure. However, Frederick County inspectors do conduct inspections at inflow points to SWM as recommended by MDE in its 2006-2008 Annual Report Review dated September 16, 2009. Field inspections are thorough and include the entire facility. Inspectors have a separate field to track outfalls due to Clean Water Act compliance requirements relating to outfalls; however, the inflow points are tracked as part of the inspection.

MDE provides data structures for the County to use as part of its Permit Compliance in Appendix 1 of the permit; there are no requirements for a separate data field for inflow because this is not a permit requirement. EPA may wish to consider raising this point with MDE, as it is in the process of developing data structures for future permits.

Lastly, the County asserts that the permit does not mandate that the County perform any inspections of inflow points into stormwater management facilities (although, again, this is routinely done). The County's decision to do so in response to MDE's recommendation was voluntary, and is an example of our willingness to make improvements over time if they are reasonable and beneficial to the system and water quality generally.

### **EPA Observation 6 (Inspection Report at p. 5)**

#### **Part III.E.2. (Illicit Discharge Detection and Elimination)**

Part III.E.2 of the Permit requires that the permittee shall maintain its illicit connection detection and elimination program. At a minimum, the Permittee must ensure that all discharges to the MS4 that are not composed entirely of stormwater are either permitted by MDE or eliminated. The permittee must also screen 150 outfalls and sample any discharges at the outfalls using a chemical test kit. The permittee must also report annually the results of field screening activities on MDE's illicit connection detection database. Additionally, the Permittee must identify all County-owned facilities requiring an NPDES discharge permit and submit documentation that a permit has been obtained for each facility. The implementation status of pollution prevention plans for County-owned facilities are required to be submitted in the County's annual report.

#### **Observation 6:**

Table 6-1 of the Frederick County 2011 NPDES MS4 Permit MD0068357 Annual Report (Annual Report) shows a number of stormwater pollution prevention plans (SWPPPs) for Frederick County-owned properties were still in progress, even though some had been initially permitted by MDE as far back as 2005. For example, the Frederick Highway Operations Facility was issued a stormwater permit from MDE on March 8, 2005; however, as of December 31, 2011 the SWPPP was still in progress. Permits for three satellite highway maintenance facilities were issued in December 2004; however the SWPPPs for these facilities were still in progress as of December 31, 2011 (see Exhibit 4 of Appendix 4).

## County Response

Facilities that discharge stormwater associated with industrial activity to waters of the State are required to obtain permit coverage from the Maryland Department of the Environment (MDE), the delegated permitting authority, if: (i) the industrial activity is included in the definition provided by federal regulations at 40 CFR §122.26 (unless otherwise exempted by the permit) or (ii) MDE has determined that the discharge would “be likely to contribute to” a water quality standards violation or is “a significant contributor of pollutants to waters of the State...”. Paragraphs (b)(14)(i) through (ix) of 40 CFR §122.26, describe the types of activities and the Standard Industrial Classification (SIC) codes that trigger permit coverage requirements. Appendix D of EPA’s Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) categorizes the SIC codes into several Sectors. Sectors requiring coverage include:

- Sector A: Timber Products
- Sector B: Paper and Allied Products
- Sector C: Chemicals and Allied Products
- Sector D: Asphalt Paving and Roofing Materials and Lubricants
- Sector E: Glass, Clay, Cement, Concrete, and Gypsum Products
- Sector F: Primary Metals
- Sector G: Metal Mining (Ore Mining and Dressing)
- Sector H: Coal Mines and Coal Mining-related Facilities
- Sector I: Oil and Gas Extraction and Refining
- Sector J: Mineral Mining and Dressing
- Sector K: Hazardous Waste Treatment, Storage, or Disposal Facilities
- Sector L: Landfills, Land Application Sites, and Open Dumps
- Sector M: Automobile Salvage Yards
- Sector N: Scrap Recycling Facilities
- Sector O: Steam Electric Generating Facilities
- Sector P: Land Transportation and Warehousing
- Sector Q: Water Transportation
- Sector R: Ship and Boat Building and Repairing Yards
- Sector S: Air Transportation Facilities
- Sector T: Treatment Works
- Sector U: Food and Kindred Products
- Sector V: Textile Mills, Apparel, and Other Fabric Product Manufacturing, Leather and Leather Products
- Sector W: Furniture and Fixtures
- Sector X: Printing and Publishing
- Sector Y: Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries
- Sector Z: Leather Tanning and Finishing
- Sector AA: Fabricated Metal Products
- Sector AB: Transportation Equipment, Industrial or Commercial Machinery
- Sector AC: Electronic, Electrical, Photographic, and Optical Goods
- Sector AD: Non-classified Facilities

40 CFR §122.26 clearly states which SIC codes trigger permit coverage requirements. Furthermore, as noted above, language in Part I.B of 02-SW allows MDE to require permit coverage if it is determined that discharges would likely contribute to a violation of a water quality standard or be a significant contributor of pollutants to waters of the State. MDE must make this determination using its Residual Designation Authority (RDA).

Frederick County currently has twelve (12) facilities covered under 02-SW and one (1) facility with a No Exposure Certification. Only five (5) of the twelve (12) permitted facilities have SIC codes included in 40 CFR §122.26. For these five (5) facilities, permit coverage is required. For the remaining seven (7) permitted facilities, the County voluntarily obtained permit coverage based on guidance provided by MDE. MDE has not used its RDA to require permit coverage for these remaining seven (7) facilities. As concrete examples, the Frederick Highway Operations Facility at 331 Montevue Lane and the three satellite highway maintenance facilities referenced on page 6 of the Report are covered under the State's Industrial Stormwater General Permit (02SW). However, this coverage is not mandatory because public works fleet and maintenance facilities are not included in the federal definition of "Storm water discharge associated with industrial activity," nor are they included in the sector list provided above. Additionally, MDE has not made an affirmative designation consistent with RDA to mandate that these facilities seek permit coverage, although it is considering mandatory coverage for fleet facilities as a part of the reissuance of 02SW (soon to be called 12SW).

Whether a facility must be covered (coverage is "required") or may be covered pursuant to MDE's past guidance (coverage is "voluntary") is important because the County's MS4 Permit only requires that the County "Identify all County-owned facilities **requiring** an NPDES discharge permit and submit documentation that a permit has been obtained for each facility. The implementation status of pollution prevention plans for these County-owned facilities shall also be submitted with the County's annual reports." County MS4 Permit, Part III.E.2.d (emphasis added). Frederick County is only required to identify facilities that are "required" to have permit coverage. Further, if a facility is **required** to have permit coverage, the County is only responsible under its MS4 permit for reporting on the status of the facility's SWPPP. The County's MS4 program is not responsible for the status of an individual facility's SWPPP. Its only obligation is to report on the implementation status of these facilities, not to manage their development and implementation.

As EPA has noted in its Observation 6, the County's NPDES MS4 permit at Part III.E.2.d requires that the County evaluate its municipally owned facilities to determine the need for coverage under the General Permit. Frederick County's permit specifically states that the County is required to "identify all County-owned facilities requiring an NPDES discharge permit and submit documentation that a permit has been obtained for each facility. The implementation status of pollution prevention plans for these County-owned facilities shall also be submitted with the County's annual reports."

To comply with this permit requirement, Frederick County conducted two evaluations – in 2004 and 2011 – of its facilities to determine whether permit coverage was required. All Frederick County facilities fall under one of the following Sectors: Sector L, Sector P, or Sector T. As a result of the two evaluations, the County sought coverage for 12 facilities under the terms of the industrial stormwater general permit. Again, some of these facilities are required to have coverage, and some are not. For the purposes of this response and for reasons discussed above, facilities have been categorized as "Required" or "Voluntary" and supporting documentation is organized in that manner. Any compliance decisions made by EPA should only be focused on "Required" facilities consistent with the MS4 permit.

The status of permit coverage and SWPPP implementation for “Voluntary” facilities like the public works fleet and maintenance facilities are not germane to the County’s MS4 compliance.

Since the initial 2004 evaluation, Frederick County has taken a number of steps to comply with its MS4 permit, including:

- (1) Reporting in its 2004 and 2005 Frederick County NPDES MS4 Permit MD0068357 Annual Reports (Annual Reports) that coverage had been obtained for certain required and voluntary facilities.
- (2) Developing a Stormwater Pollution Prevention Plan (SWPPP) template and instructions for completion. These documents were provided to facility managers and used to draft SWPPPs (Exhibits 6.1a and 6.2a). Again, it is Frederick County’s view that its responsibility under the MS4 permit is limited to reporting on the status of for the development and implementation of SWPPPs on individual municipally-owned properties. Thus, it is the interpretation of management at Frederick County that the steps described above more than met the County’s obligations set forth in its NPDES MS4 permit.
- (3) Executing a task order with Versar, its NPDES consultant, in 2011 to:
  - Re-evaluate previously permitted facilities to ensure on-site conditions had not changed
  - Review and update SWPPPs for previously permitted facilities
  - Re-evaluate all County-owned properties to see if additional facilities required coverage
  - Develop SWPPPs for newly permitted facilities
  - Assist the County with SWPPP implementation by providing annual stormwater pollution prevention training and conducting annual comprehensive site inspections

MDE’s General Permit (02-SW) expired in 2007. In 2011, when Versar began its SWPPP work, MDE was working to draft and issue a new permit that aligned more closely with EPA’s MSGP. During the review of the 2006 SWPPPs, Versar made the recommendation that they be updated to meet the requirements of EPA’s MSGP. Versar began the process of updating existing SWPPPs and developing new SWPPPs for permitted properties at the end of 2011. Therefore, the County reported that SWPPPs were “in progress” in Table 6-1 of the 2011 Annual Report, referenced in Observation 6. Copies of the complete, revised SWPPPs are included in Exhibits 6.1b and 6.2b.

## **EPA Observation 7 (Inspection Report at p. 6)**

### **Part III.E.2. (Illicit Discharge Detection and Elimination)**

Part III.E.2 of the Permit requires that the permittee shall maintain its illicit connection detection and elimination program. At a minimum, the Permittee must ensure that all discharges to the MS4 that are not composed entirely of stormwater are either permitted by MDE or eliminated. The permittee must also screen 150 outfalls and sample any discharges at the outfalls using a chemical test kit. The permittee must also report annually the results of field screening activities on MDE’s illicit connection detection database. Additionally, the Permittee must identify all County-owned facilities requiring an NPDES discharge permit and submit documentation that a permit has been obtained for each facility. The implementation status of pollution prevention plans for County-owned facilities are required to be submitted in the County’s annual report.

### **Observation 7:**

SWPPPs for county-owned properties have not been fully implemented. Personnel from the Frederick County CDD stated that although the SWPPPs have been recently finalized, the annual and quarterly

inspections have not yet been initiated. During walk-through inspections of County-owned facilities by the EPA Inspection Team on April 24, 2012, a number of issues were identified which could have been corrected if inspections were being conducted. For example, an overfilled tote containing spent engine coolant was discovered outside the maintenance shop at the Hayward Road Bus Lot, along with an open-top 55-gallon drum containing oily metal parts (see Photographs 3 through 5, Appendix 5).

### **County Response**

The County asks that EPA reference the response to Observation 6 with regard to the obligations the MS4 Program has with regard to implementation of SWPPPs on other municipally-owned facilities.

In addition, though County staff initially believed Frederick County Board of Education (BOE) to be part of Frederick County Government and therefore a permittee that must be monitored for purposes of MS4 compliance. Upon further review, the County has determined that BOE is legally separate State entity over which the County has no control or authority, with facilities that are not owned by Frederick County Government. The County's MS4 Permit does not oblige it to review permitting status or report on SWPPP implementation efforts for non-County-owned facilities.

The County notes the following pro-active steps it has taken since the EPA audit to assist County-owned industrial facilities with their SWPPPs and employee training.

### ***Progress Made Since Time of EPA Audit***

At the time of the EPA audit, Versar and the County had just completed the revisions of the 2006 SWPPPs and development of the new SWPPPs and the County was in the process of beginning SWPPP implementation.

### **Inspections**

Since the 2012 SWPPPs were finalized, facility managers have conducted routine quarterly inspections which can be found in Attachment D of Exhibits 6.1b and 6.2b. Annual comprehensive inspections were conducted on November 28 and 29, 2012 and on December 3, 6, 10, and 12, 2012 and can be found in Attachment E of Exhibits 6.1b and 6.2b. Versar is under contract to conduct the annual comprehensive inspections for 2013.

### **Annual Stormwater Pollution Prevention Training**

Annual stormwater pollution prevention trainings were held in 2012 and 2013 for County staff employed at permitted facilities. In 2012, Versar provided two different trainings: (1) one for management, SWPPP team members, and other staff directly involved with SWPPP implementation and (2) one for general staff employed at facilities covered by industrial discharge permits. The 2012 trainings were held on June 19, 20, and 27, 2012.

In 2013, Frederick County staff decided to refine the training process slightly. Instead of providing two different types of in-class trainings Versar would continue to provide an in-class training for management, SWPPP team members, and other staff directly involved with SWPPP implementation, but develop an online training for the general staff employed at facilities covered by industrial discharge permits. The in-class trainings were held on June 20, 24 and July 8, 2013. The online training is currently being developed.

Copies of the 2012 and 2013 training curricula and the sign-in sheets can be found in Attachment G of Exhibit 6.1b and 6.2b.

## **EPA Observation 8 (Inspection Report at p. 6)**

### **Part III.E.2. (Illicit Discharge Detection and Elimination)**

Part III.E.2 of the Permit requires that the permittee shall maintain its illicit connection detection and elimination program. At a minimum, the Permittee must ensure that all discharges to the MS4 that are not composed entirely of stormwater are either permitted by MDE or eliminated. The permittee must also screen 150 outfalls and sample any discharges at the outfalls using a chemical test kit. The permittee must also report annually the results of field screening activities on MDE's illicit connection detection database. Additionally, the Permittee must identify all County-owned facilities requiring an NPDES discharge permit and submit documentation that a permit has been obtained for each facility. The implementation status of pollution prevention plans for County-owned facilities are required to be submitted in the County's annual report.

### **Observation 8:**

At County-owned facilities where SWPPPs were completed prior to December 2011, inspection data is not available. For example, when the EPA Inspection Team requested stormwater inspection records for the Reich's Ford Landfill which was originally permitted in 1992, it was learned that inspections have not been conducted and no documentation was available.

### **County Response**

The County asks that EPA reference the response to Observation 6 with regard to the obligations the MS4 Program has with regard to the development and implementation of SWPPPs (and other permit requirements) on municipally-owned industrial facilities.

The County believes that there are two errors in EPA Observation 8, as explained below.

First, a SWPPP was developed for the Ballenger-McKinney WWTP (Permit #: 02SW1878) in 2005 and monthly SWPPP inspections have been conducted from 2006 through 2013 (Exhibit 8.1a).

Second, Observation 8 notes that "At County-owned facilities where SWPPPs were completed prior to December 2011, inspection data is not available. For example, when the EPA Inspection Team requested stormwater inspection records for the Reich's Ford Landfill which was originally permitted in 1992, it was learned that inspections have not been conducted and no documentation was available."

1992 is incorrect and some confusion with State Discharge permit numbers may explain the mix up. The date should be 2001.

NPDES discharge permit (EPA: MD00601093 State Permit # 84-DP-2191) for a combined stormwater/leachate discharge was issued with an effective date of January 1, 1985. This permit did not contain any language regarding stormwater management plans. This permit was set to expire on January 1, 1990, but at the time, Frederick County DPW was facing enforcement action regarding discharges from the landfill that resulted in an MDE Consent Order executed in July 1990. As part of the Consent Order, the existing permit limitations of discharge permit 84-DP-2191 remained in effect.

A renewal application was submitted to MDE and was assigned a state permit number of 92-DP-2191 (MDE uses the year the application was received when the number is created). However, a new permit was not issued until the conditions of the Consent Order were satisfied.

Permit MD0060193, 92-DP-2191 was only then issued with an effective date of August 1, 2001. This is also the first discharge permit that mandated the development of stormwater prevention plans.

A SWPPP was created for this facility (and only the leachate plant, not the entire site) in 2005, but inspections were sporadic with only some records from 2005 and 2006.

### ***Progress Made Since Time of EPA Audit***

At the time of the EPA audit, Versar and the County had just completed the revisions of the 2006 SWPPPs and development of the new SWPPPs and the County was in the process of beginning SWPPP implementation.

### ***Inspections***

Since the 2012 SWPPPs were finalized, facility managers have conducted routine quarterly inspections which can be found in Attachment D of Exhibits 6.1b and 6.2b. Annual comprehensive inspections were conducted on November 28 and 29, 2012 and on December 3, 6, 10, and 12, 2012 and can be found in Attachment E of Exhibits 6.1b and 6.2b or in Exhibits 8.1 through 8.12. Versar is under contract to conduct the annual comprehensive inspections for 2013.

## **EPA Observation 9 (Inspection Report at p. 6)**

### **Part III.E.2. (Illicit Discharge Detection and Elimination)**

Part III.E.2 of the Permit requires that the permittee shall maintain its illicit connection detection and elimination program. At a minimum, the Permittee must ensure that all discharges to the MS4 that are not composed entirely of stormwater are either permitted by MDE or eliminated. The permittee must also screen 150 outfalls and sample any discharges at the outfalls using a chemical test kit. The permittee must also report annually the results of field screening activities on MDE's illicit connection detection database. Additionally, the Permittee must identify all County-owned facilities requiring an NPDES discharge permit and submit documentation that a permit has been obtained for each facility. The implementation status of pollution prevention plans for County-owned facilities are required to be submitted in the County's annual report.

### **Observation 9:**

Industrial stormwater inspector training for those individuals responsible for SWPPP implementation at county-owned properties has not been provided. General stormwater awareness training for all employees working at county-owned properties has not been provided. Based on discussions with Frederick County and their contactor, Versar, the County is currently in the process of identifying the types of training needed for employees, and will be developing and providing that training next few months.

### **County Response**

Regarding the following statement in Observation 9: *"Industrial stormwater inspector training for those individuals responsible for SWPPP implementation at county-owned properties has not been provided"*:

Under its current NPDES MS4 permit (MD0068357) the County is not required to provide industrial stormwater training for those individuals responsible for SWPPP implementation at county-owned properties. This is not a regulatory requirement. However, the County notes that it has taken pro-active steps since the EPA audit to assist County-owned industrial facilities with their training efforts.

Furthermore, with regards to employee training, Part IV.C.7 of 02-SW states: “Employee training programs shall inform personnel at all levels of responsibility of the components and goals of the storm water pollution prevent plan. Training should address topics, such as spill response, good housekeeping and material management practices.” There is not a requirement to provide “industrial stormwater inspector training” as stated in Observation 9.

Regarding the following statement in Observation 9: *“General stormwater awareness training for all employees working at county-owned properties has not been provided”*:

Under its current NPDES MS4 permit (MD0068357) the County is not required to provide general stormwater awareness training for all employees working at county-owned properties. This was presented by the EPA consultant inspection staff as a helpful practice that they would recommend, but it is not a regulatory requirement.

### ***Progress Made Since Time of EPA Audit***

At the time of the EPA audit, the County was in the process of beginning development of an annual SWPPP training.

### ***Annual Stormwater Pollution Prevention Training***

Annual stormwater pollution prevention trainings were held in 2012 and 2013 for County staff employed at permitted facilities. In 2012, Versar provided two different trainings: (1) one for management, SWPPP team members, and other staff directly involved with SWPPP implementation and (2) one for general staff employed at facilities covered by industrial discharge permits. The 2012 trainings were held on June 19, 20, and 27, 2012.

In 2013, Frederick County staff decided to refine the training process slightly. Instead of providing two different types of in-class trainings Versar would continue to provide an in-class training for management, SWPPP team members, and other staff directly involved with SWPPP implementation, but develop an online training for the general staff employed at facilities covered by industrial discharge permits. The in-class trainings were held on June 20, 24 and July 8, 2013. The online training is currently being developed.

Copies of the 2012 and 2013 training curricula and the sign-in sheets can be found in Attachment G of Exhibits 6.1b and 6.2b or in Exhibits 9.1 and 9.2.

## **EPA Observation 10 (Inspection Report at p. 7)**

### **Part III.E.4. – Erosion and Sediment Control**

Part III.E.4 of the Permit requires that the Permittee maintain an acceptable erosion and sediment control plan. At a minimum, the Permittee must address needed program improvements identified during MDE’s evaluation of the permittee’s application for the delegation of erosion and sediment control enforcement authority. Additionally, the Permittee must conduct responsible personnel certification classes to educate construction site operators regarding erosion and sediment control compliance at least twice per year, and record the activity on MDE’s green card database. Finally, beginning on September 11, 2002, the Permittee must report information on a quarterly basis regarding earth disturbances of five acres or more. Beginning on August 5, 2003, this requirement changed to regarding earth disturbances of one acre or more.

Frederick County has implemented an ongoing online training course for construction site operators. Interested parties can download the class and submit the test at their leisure. Frederick County found that the online course resulted in reduced staff time requirements and an increase in class attendees and certified operators. The County issued 45 certifications in 2011.

#### **Observation 10:**

Frederick County makes erosion and sediment control inspection results publicly available through their website. Since 2002, Frederick County has tracked erosion and sediment control inspections in the Hansen system. Once inspection reports are entered into the county's Hansen system, the reports are uploaded to the Hansen Connect system, which allows public access to the construction site inspection records from Frederick County's Permit Portal website. The records can be accessed by entering the site's permit number (AP#) and following the instructions provided in Exhibit 5 of Appendix 4.

#### **County Response**

Frederick County appreciates EPA's recognition that it has gone above regulatory requirements to provide information related to its sediment and erosion control records.

We offer the following clarification to the statement, "the reports are uploaded to the Hansen Connect system". Hansen Connect is a reporting mechanism only, there is no data storage or uploading associated.

### **EPA Observation 11 (Inspection Report, p. 7)**

#### **Part III.E.4. – Erosion and Sediment Control**

Part III.E.4 of the Permit requires that the Permittee maintain an acceptable erosion and sediment control plan. At a minimum, the Permittee must address needed program improvements identified during MDE's evaluation of the permittee's application for the delegation of erosion and sediment control enforcement authority. Additionally, the Permittee must conduct responsible personnel certification classes to educate construction site operators regarding erosion and sediment control compliance at least twice per year, and record the activity on MDE's green card database. Finally, beginning on September 11, 2002, the Permittee must report information on a quarterly basis regarding earth disturbances of five acres or more. Beginning on August 5, 2003, this requirement changed to regarding earth disturbances of one acre or more.

Frederick County has implemented an ongoing online training course for construction site operators. Interested parties can download the class and submit the test at their leisure. Frederick County found that the online course resulted in reduced staff time requirements and an increase in class attendees and certified operators. The County issued 45 certifications in 2011.

#### **Observation 11:**

Frederick County does not have a formal training process for new construction inspectors. After losing a veteran inspector in 2011, Frederick County hired a part-time inspector. While the inspector had previous related experience, the inspector had not been formally trained in BMP and construction site inspections. The inspector received on-the-job training. Frederick County has a standard operating procedure (SOP) for inspection report writing, enforcement and prioritization of construction site inspections (see Exhibit 6 in Appendix 4); however, the inspector did not always follow the SOP in

regards to escalating enforcement. For example, at the Hebron Christian Church construction site (AP# 78838), the inspector identified repeated issues with stockpiles and silt fencing three separate times and marked each inspection status as “passed”. Upon the fourth inspection where the same issues were observed, the inspector issued a “failed” status (see Exhibit 7 of Appendix 4). The SOP states that the identification of any erosion and sediment control issues constitutes a failed inspection. The inspector supervisor stated that the incorrect inspection status was the result of a training issue.

Similarly, for the Ijamsville Road public construction site, email documentation between Frederick County staff and MDE shows that numerous sediment control issues were identified on site between November and December 2011. An email dated December 9, 2011 states “no more work (excavation) is to be completed until sediment controls are installed” (see Exhibit 8 of Appendix 4). However, all inspection reports during this time frame show an inspection status of “passed” (see Exhibit 9 in Appendix 4).

### **County Response**

As EPA notes above, Frederick County hired a part-time inspector to assist with workload after losing a veteran inspector. The inspector was given on-the-job training with a veteran inspector, and subsequently has received additional training regarding proper report writing. In addition, escalation of enforcement is taking place, and status tracking is being performed correctly.

Although the County submits that there is no permit requirement for the County to provide formal versus on-the-job training to its E&S inspectors as implied by Observation 11, Frederick County always seeks to improve its programs and intends to develop better written procedures by the end of the year to use as part of its existing training process with a goal of providing excellent training for new and veteran inspectors.

Further, though there is no permit requirement for the County to develop and follow SOPs for its inspection process, the County intends to develop written SOPs by the end of the year.

## **EPA Observation 12 (Inspection Report, p. 7)**

### **Part III.E.4. – Erosion and Sediment Control**

Part III.E.4 of the Permit requires that the Permittee maintain an acceptable erosion and sediment control plan. At a minimum, the Permittee must address needed program improvements identified during MDE’s evaluation of the permittee’s application for the delegation of erosion and sediment control enforcement authority. Additionally, the Permittee must conduct responsible personnel certification classes to educate construction site operators regarding erosion and sediment control compliance at least twice per year, and record the activity on MDE’s green card database. Finally, beginning on September 11, 2002, the Permittee must report information on a quarterly basis regarding earth disturbances of five acres or more. Beginning on August 5, 2003, this requirement changed to regarding earth disturbances of one acre or more.

Frederick County has implemented an ongoing online training course for construction site operators. Interested parties can download the class and submit the test at their leisure. Frederick County found that the online course resulted in reduced staff time requirements and an increase in class attendees and certified operators. The County issued 45 certifications in 2011.

### **Observation 12:**

Frederick County is not thoroughly inspecting and conducting follow-up and enforcement at all construction sites. On April 25, 2012, the EPA Inspection Team visited the Windsor Knolls construction sites, located at 3328 Winmoor Drive, Ijamsville, MD, along with Frederick County staff. Frederick County manages Windsor Knolls as two adjacent sites. One site is the subdivision area which has been split into individual lots (AP# 93027). The second site primarily consists of a sediment basin (AP# 87193). The majority of each site is stabilized but there is active construction on some of the individual lots. During the visit conducted with the EPA Inspection Team, significant rill erosion along the banks of the sediment basin was observed (see Photographs 6 through 8 of Appendix 5). While the inspector had inspected the subdivision area at least once per month in 2011, the inspector had not inspected the sediment basin area since January 23, 2012. The inspector had noted the erosion problems and marked the inspection status as failed for the past three inspections at the site on December 2, 2011, December 28, 2011, and January 23, 2012 (see Exhibit 10 in Appendix 4). After the EPA Inspection Team's visit, the inspector conducted inspections on May 3, 2012 and May 16, 2012 and proposed a course of action to resolve the issues. The inspector noted the rill erosion had been repaired in his June 28, 2012 inspection report (see Exhibit 11 of Appendix 4).

### **County Response**

Please reference the County's response to Observation 11.

## **EPA Observation 13 (Inspection Report, p. 8)**

### **Part III.E.4. – Erosion and Sediment Control**

Part III.E.4 of the Permit requires that the Permittee maintain an acceptable erosion and sediment control plan. At a minimum, the Permittee must address needed program improvements identified during MDE's evaluation of the permittee's application for the delegation of erosion and sediment control enforcement authority. Additionally, the Permittee must conduct responsible personnel certification classes to educate construction site operators regarding erosion and sediment control compliance at least twice per year, and record the activity on MDE's green card database. Finally, beginning on September 11, 2002, the Permittee must report information on a quarterly basis regarding earth disturbances of five acres or more. Beginning on August 5, 2003, this requirement changed to regarding earth disturbances of one acre or more.

Frederick County has implemented an ongoing online training course for construction site operators. Interested parties can download the class and submit the test at their leisure. Frederick County found that the online course resulted in reduced staff time requirements and an increase in class attendees and certified operators. The County issued 45 certifications in 2011.

### **Observation 13.**

Frederick County does not have standard operating procedures (SOPs) for using the Hansen system for plan review or inspection reporting. The Hansen system is used for many activities across the county. The system has been tailored to accommodate each activity, resulting in a large number of codes to be used to record work types and inspections. There are 3,136 default comments a user can select when entering information into Hansen. More than one code or comment may apply to a situation, and therefore, two users may record the same issue in two different ways, which could lead to tracking issues. While the County's Hansen Information Technologies Department has developed manuals used by the Intake Department for entering and managing activities in the Hansen system, no similar manuals

or SOPs are available for plan reviewers and inspectors detailing which codes should be used to describe common plan review or inspection findings.

### **County Response**

The County's MS4 Permit requires that it maintain an acceptable E&S program, which must include addressing improvements recommended by MDE, conducting certification classes for construction site operators, and reporting on earth disturbances. The County is not aware of any Permit requirement, or state law requirement for that matter, that mandates the development and/or implementation of an SOP for an E&S database. Moreover, although EPA hypothesizes that multiple codes could lead to "tracking issues" it has not identified any specific tracking issues relating to the use of the Hansen system in this Inspection Report. As the County is working towards continuous improvement of the program, it will complete SOPs on the Hansen System for E&S by the end of the year.

## **EPA Observation 14 (Inspection Report, p. 8)**

### **Part III.E.6. (Road Maintenance)**

Part III.E.6 of the Permit requires that the Permittee develop and implement a plan to reduce pollutants associated with road maintenance activities. At a minimum, the Permittee must document that they are cleaning inlets; reducing the use of pesticides, herbicides, fertilizers, and other pollutants associated with roadside vegetative management practices through the use of integrated pest management; and controlling the overuse of winter weather deicing materials through continual testing and improvement of materials and effective decision making.

### **Observation 14:**

An SOP for controlling excessive use of deicing materials is available; however, in the area down-gradient of the salt barn at the Frederick Highway Operations Facility, salt-impacted vegetation had been removed and new mulch/seed mats had been added (see Photograph 9 of Appendix 5).

### **County Response**

The County's MS4 permit requires it to control the "overuse of winter weather deicing materials," which it does, in part, through its SOP for controlling the excessive use of these materials. The permit does not include any requirements for the **storage** of deicers; only for their **use** on roadways (hence the inclusion in the Road Maintenance section of the permit). The County is concerned that EPA's observation, while appreciated, misconstrues the legal obligations under the County's NPDES permit. However, as a matter of general good housekeeping, the County took steps to replace the vegetation with new mulch and seed mats. Since the audit, Highway Operations has excavated the area and replaced it with filter cloth and stone that can be cleaned on a regular basis, as seen in Exhibit 14.

## **EPA Observation 15 (Inspection Report, p. 9)**

### **Part III.F. (Watershed Restoration)**

The Permit requires Frederick County to continue its systematic assessment of water quality within its watersheds and to target restoration efforts in those areas where opportunities to improve water quality are significant and where prior restoration efforts have been insufficient to meet goals established by the county.

### **Observation 15:**

Frederick County has developed watershed assessments for approximately 60% of the County. The County also develops restoration assessments and retrofit/restoration reports which focus on engineering and practical issues related to stream restoration and BMP retrofits. Restoration strategies for the Upper and Lower Monocacy River Watershed have been recognized by the state and EPA. The County has implemented stream restoration in the Ballenger Creek and Linganore watersheds. Additionally, Frederick County has installed bioretention facilities at a school which previously only had a stormwater quantity pond. Water quality monitoring results from the bioretention facility will be used as a teaching tool.

#### **County Response**

Frederick County thanks EPA for its acknowledgement of our strong watershed assessment program and the recognition we have received for this effort.